

AMENDED IN ASSEMBLY JUNE 1, 2004

AMENDED IN ASSEMBLY SEPTEMBER 12, 2003

AMENDED IN ASSEMBLY SEPTEMBER 9, 2003

SENATE BILL

No. 1056

Introduced by Senator Alarcon

February 27, 2003

~~An act to add Sections 20035.9, 22825.12, and 22825.19 to the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately. An act to add Section 65957.3 to the Government Code, relating to land use.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1056, as amended, Alarcon. ~~State employees: memorandum of understanding.~~ *Development projects: superstore retailers.*

(1) The Permit Streamlining Act requires the lead agency that has the principal responsibility for approving a development project, as defined, to approve or disapprove the project within 6 months from the date of certification of an environmental impact report, or within 3 months from the date of adoption of a negative declaration or the determination by the lead agency that the project is exempt from the California Environmental Quality Act, unless the project proponent requests an extension of time.

This bill would in addition require a city, county, or city and county, including a charter city, prior to approving or disapproving a proposed development project that would permit the construction of a superstore retailer, as defined, to cause an economic impact report to be prepared, as specified, to be paid for by the project applicant, and that includes specified assessments and projections including, among other things,

an assessment of the effect that the construction and operation of the proposed superstore retailer will have on retail operations in the same market area. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(1) Existing law provides that if any provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees requires the expenditure of funds, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature in the annual Budget Act.~~

~~This bill would approve provisions that require the expenditure of funds of memoranda of understanding entered into between the state employer and State Bargaining Units 1, 4, 10, 11, 14, 15, 16, 17, 19, 20, and 21, and would provide that the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.~~

~~This bill would provide that provisions of the memoranda of understanding approved by this bill that require the expenditure of funds shall not take effect unless funds for these provisions are specifically appropriated by the Legislature, and would provide that if funds for these provisions are not specifically appropriated by the Legislature, the state employer, and the affected employee organization shall meet and confer to renegotiate the affected provisions.~~

~~(2) The Public Employees' Retirement Law defines "final compensation," for purposes of calculating retirement benefits, as the highest annual average compensation earnable by the member during a designated 12-month period.~~

~~Under this bill, the calculation of "final compensation" for a member in State Bargaining Unit 1, 4, 10, 11, 14, 15, 16, 17, 19, 20, or 21 would include the compensation the member would have earned effective July 1, 2003, if a specified 5% reduction had not occurred.~~



~~(3) The Public Employees' Hospital and Medical Care Act provides that the employer's contributions for health benefits for represented state employees shall be determined through the collective bargaining process subject to funding in the annual Budget Act.~~

~~Under this bill, from January 1, 2004, to December 31, 2005, inclusive, the employer's contribution for health benefits for employees in State Bargaining Units 16 and 19 would be 80% of the weighted average for health benefits plan premiums for active state civil service employees enrolled for self alone plus 80% of the weighted average for additional premiums for family members. Thereafter, the employer's contribution for those employees would be 85% of that weighted average for self alone plus 80% of that weighted average for family members.~~

~~Under this bill, effective January 1, 2004, the employer's contribution for health benefits for employees in State Bargaining Units 1, 4, 10, 11, 14, 15, 17, 20, and 21 would be 80% of the weighted average for health benefits plan premiums for active state civil service employees enrolled for self alone plus 80% of the weighted average for additional premiums for family members.~~

~~(4) The bill would also declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~2/3~~ majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.—The Legislature finds and declares that the~~
- 2 ~~SECTION 1. It is the intent of the Legislature to promote~~
- 3 ~~market competition and economic development in all communities~~
- 4 ~~of the state and to address the concerns of the state's small~~
- 5 ~~businesses as the superstore retail model enters the state's~~
- 6 ~~communities. Therefore, the Legislature finds and declares all of~~
- 7 ~~the following:~~
- 8 ~~(a) It is in the interest of local governments to promote~~
- 9 ~~economic development in their jurisdictions.~~
- 10 ~~(b) Local governmental agencies should not permit superstore~~
- 11 ~~retailers to operate a business if there will be a negative effect on~~
- 12 ~~the competition and livelihood of local small businesses.~~
- 13 ~~(c) Transformations in the big box retail industry are rapidly~~
- 14 ~~altering retail business nationwide, as California may soon learn~~

1 *firsthand. The engine of this change is the retail format known as*
2 *the superstore--a big box retail store that also contains the*
3 *equivalent of a full-size grocery store, with the total floor space*
4 *often three to four times as large as that of a conventional*
5 *supermarket.*

6 *(d) As a result of the possible restructuring of retail business,*
7 *particularly the grocery sector in California, the following effects*
8 *may be seen: higher prices charged for grocery and other retail*
9 *goods; lower wages and benefits paid to grocery workers; and a*
10 *host of complex land use, traffic, and fiscal impacts.*

11 *(e) Land use decisions regarding superstores will fall to city*
12 *and county governments, even if the impacts will be regional as*
13 *well as local.*

14 *SEC. 2. Section 65957.3 is added to the Government Code, to*
15 *read:*

16 *65957.3. (a) As used in this section, "superstore retailer"*
17 *means a store greater than 130,000 square feet of gross buildable*
18 *area that will generate sales or use tax revenue pursuant to the*
19 *Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5*
20 *(commencing with Section 7200) of Division 2 of the Revenue and*
21 *Taxation Code), that contains more than 20,000 stockkeeping*
22 *units, and derives 10 percent of its total sales from the sale of*
23 *nontaxable merchandise.*

24 *(b) As used in this section, the term "market area" has the same*
25 *meaning as that term is defined in Section 53084.*

26 *(c) Prior to approving or disapproving a proposed*
27 *development project that would permit the construction of a*
28 *superstore retailer, a city, county, or city and county shall cause to*
29 *be prepared an economic impact report.*

30 *(1) The city, county, or city and county may prepare the*
31 *economic impact report or contract with a private entity or another*
32 *public agency for the preparation of the report. The private entity*
33 *or other public agency shall be qualified by education, training,*
34 *and experience to conduct economic and fiscal analyses.*

35 *(2) The applicant for the development project shall pay the city,*
36 *county, or city and county for the costs of preparing the economic*
37 *impact report.*

38 *(3) The economic impact report shall include, but not be limited*
39 *to, all of the following:*

1 (A) An assessment of the extent to which the proposed
2 superstore retailer will capture a share of retail sales in the city,
3 county, or city and county.

4 (B) An assessment of how the construction and operation of the
5 proposed superstore retailer will affect the supply and demand for
6 retail space in the city, county, or city and county.

7 (C) An assessment of how the construction and operation of the
8 proposed superstore retailer will affect wages and benefits and the
9 demand for employment in the city, county, or city and county.

10 (D) A projection of the costs of public services and public
11 facilities resulting from the construction and operation of the
12 proposed superstore retailer and the incidence of those costs.

13 (E) A projection of the public revenues resulting from the
14 construction and operation of the proposed superstore retailer and
15 the incidence of those revenues.

16 (F) An assessment of the effect that the construction and
17 operation of the proposed superstore retailer will have on retail
18 operations in the same market area.

19 (G) An assessment of the effect that the construction and
20 operation of the proposed big box retailer will have on the ability
21 of the city, county, or city and county to implement the goals
22 contained in its general plan, including, but not limited to, local
23 policies and standards that apply to land use patterns, traffic
24 circulation, affordable housing, natural resources, including
25 water supplies, open-space lands, noise problems, and safety risks.

26 (d) Nothing in this section shall preclude a city, county, or city
27 and county from conducting additional studies of the effects of the
28 construction and operation of a proposed superstore retailer.

29 (e) (1) The Legislature finds that the construction and
30 operation of a superstore retailer has land use, environmental,
31 economic, fiscal, and social equity effects that extend beyond the
32 boundaries of the city, county, or city and county in which it is
33 located.

34 (2) The Legislature finds that it is essential for the statewide
35 public health, safety, and welfare to require cities, counties, and
36 cities and counties to understand the potential spillover effects of
37 approving the construction and operation of superstore retailers.

38 (3) The Legislature further finds and declares that the review
39 and regulation of superstore retailers is a matter of statewide
40 concern and not merely a municipal affair, as that term is used in

1 *Section 5 of Article XI of the California Constitution. Therefore,*
2 *this section shall apply to charter cities and to charter cities and*
3 *counties.*

4 *SEC. 3. No reimbursement is required by this act pursuant to*
5 *Section 6 of Article XIII B of the California Constitution because*
6 *a local agency or school district has the authority to levy service*
7 *charges, fees, or assessments sufficient to pay for the program or*
8 *level of service mandated by this act, within the meaning of Section*
9 *17556 of the Government Code.*

10 ~~purpose of this act is to approve agreements pursuant to Section~~
11 ~~3517 of the Government Code entered into by the state employer~~
12 ~~and recognized employee organizations.~~

13 ~~SEC. 2. The provisions of the memoranda of understanding~~
14 ~~prepared pursuant to Section 3517.5 of the Government Code and~~
15 ~~entered into by the state employer and the following employee~~
16 ~~organizations, and that require the expenditure of funds, are~~
17 ~~hereby approved for the purposes of Section 3517.6 of the~~
18 ~~Government Code:~~

19 ~~(a) State Bargaining Unit 1, the California State Employees~~
20 ~~Association.~~

21 ~~(b) State Bargaining Unit 4, the California State Employees~~
22 ~~Association.~~

23 ~~(c) State Bargaining Unit 10, the California Association of~~
24 ~~Professional Scientists.~~

25 ~~(d) State Bargaining Unit 11, the California State Employees~~
26 ~~Association.~~

27 ~~(e) State Bargaining Unit 14, the California State Employees~~
28 ~~Association.~~

29 ~~(f) State Bargaining Unit 15, the California State Employees~~
30 ~~Association.~~

31 ~~(g) State Bargaining Unit 16, Union of American Physicians~~
32 ~~and Dentists.~~

33 ~~(h) State Bargaining Unit, 17, the California State Employees~~
34 ~~Association.~~

35 ~~(i) State Bargaining Unit 19, American Federation of State,~~
36 ~~County and Municipal Employees.~~

37 ~~(j) State Bargaining Unit 20, the California State Employees~~
38 ~~Association.~~

39 ~~(k) State Bargaining Unit 21, the California State Employees~~
40 ~~Association.~~

1 ~~SEC. 3.—The provisions of the memoranda of understanding~~
2 ~~approved by Section 2 of this act that are scheduled to take effect~~
3 ~~on or after July 1, 2003, and that require the expenditure of funds,~~
4 ~~shall not take effect unless funds for these provisions are~~
5 ~~specifically appropriated by the Legislature. If funds for these~~
6 ~~provisions are not specifically appropriated by the Legislature, the~~
7 ~~state employer and the affected employee organization shall meet~~
8 ~~and confer to renegotiate the affected provisions.~~

9 ~~SEC. 4.—Notwithstanding Section 3517.6 of the Government~~
10 ~~Code, the provisions of any memorandum of understanding that~~
11 ~~require the expenditure of funds shall become effective even if the~~
12 ~~provisions of the memorandum of understanding are approved by~~
13 ~~the Legislature in legislation other than the annual Budget Act.~~

14 ~~SEC. 5.—Section 20035.9 is added to the Government Code, to~~
15 ~~read:~~

16 ~~20035.9.—(a) Notwithstanding Sections 20035 and 20037,~~
17 ~~“final compensation” for the purpose of determining any pension~~
18 ~~or benefit with respect to a state miscellaneous member (1) who~~
19 ~~retires or dies on or after July 1, 2003, (2) who was a member of~~
20 ~~a state bargaining unit listed in subdivision (b), and (3) whose~~
21 ~~monthly salary range that was to be effective July 1, 2003, was~~
22 ~~reduced by 5 percent pursuant to a memorandum of understanding~~
23 ~~entered into during the 2003–04 fiscal year, means the highest~~
24 ~~annual compensation the member would have earned as of July 1,~~
25 ~~2003, if that 5-percent reduction had not occurred. This section~~
26 ~~shall apply only if the period during which the member’s salary~~
27 ~~was reduced would have otherwise been included in determining~~
28 ~~his or her final compensation. The increased costs, if any, that may~~
29 ~~result from the application of the definition of “final~~
30 ~~compensation” provided in this section shall be paid by the~~
31 ~~employer in the same manner as other retirement benefits are~~
32 ~~funded.~~

33 ~~(b) The section shall apply with respect to members in State~~
34 ~~Bargaining Units 1, 4, 10, 11, 14, 15, 16, 17, 19, 20, and 21.~~

35 ~~SEC. 6.—Section 22825.12 is added to the Government Code,~~
36 ~~to read:~~

37 ~~22825.12.—(a) Notwithstanding Section 22825.1, subdivision~~
38 ~~(b) of Section 22825.15, or any other provision of this article, the~~
39 ~~employer’s contribution with respect to employees in State~~
40 ~~Bargaining Unit 16 and State Bargaining Unit 19 shall be as~~

described in paragraphs (1) and (2). To be eligible for this contribution, the employee must be enrolled in an approved health benefits plan.

(1) From January 1, 2004, to December 31, 2005, inclusive, the employer's contribution for each employee shall be an amount equal to 80 percent of the weighted average of the basic health benefits plan premium for an active state civil service employee enrolled for self-alone, during the benefit year to which the formula is applied, for the four basic health benefits plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefits plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(2) From and after January 1, 2006, the employer's contribution for each employee shall be an amount equal to 85 percent of the weighted average of the basic health benefits plan premium for an active state civil service employee enrolled for self-alone, during the benefit year to which the formula is applied, for the four basic health benefits plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefits plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(b) The employer is not obligated to make a contribution under this section for any employee unless and until the effective date of the employee's enrollment in an approved health benefits plan.

(c) The contribution of each employee and annuitant under this section shall be the total cost per month of the benefit coverage afforded him or her under the plan or plans less the portion thereof to be contributed by the employer.

~~(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.~~

~~SEC. 7. Section 22825.19 is added to the Government Code, to read:~~

~~22825.19. (a) Notwithstanding Section 22825.1, subdivision (b) of Section 22825.15, or any other provision of this article, the employer's contribution with respect to employees in the following state bargaining units shall be as described in subdivision (b): State Bargaining Units 1, 4, 10, 11, 14, 15, 17, 20, and 21. To be eligible for this contribution, the employee must be enrolled in an approved health benefits plan.~~

~~(b) Effective January 1, 2004, the employer's contribution for each employee shall be an amount equal to 80 percent of the weighted average of the basic health benefits plan premium for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefits plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefits plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.~~

~~(c) The employer is not obligated to make a contribution under this section for any employee unless and until the effective date of the employee's enrollment in an approved health benefits plan.~~

~~(d) The contribution of each employee and annuitant under this section shall be the total cost per month of the benefit coverage afforded him or her under the plan or plans less the portion thereof to be contributed by the employer.~~

~~(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant~~

1 to Section 3517.5 or Chapter 12 (commencing with Section 3560)
2 of Division 4 of Title 1, the memorandum of understanding shall
3 be controlling without further legislative action, except that if
4 those provisions of a memorandum of understanding require the
5 expenditure of funds, the provisions may not become effective
6 unless approved by the Legislature in the annual Budget Act.

7 SEC. 8. This act is an urgency statute necessary for the
8 immediate preservation of the public peace, health, or safety
9 within the meaning of Article IV of the Constitution and shall go
10 into immediate effect. The facts constituting the necessity are:

11 In order for the provisions of this act to be applicable as soon as
12 possible in the 2003-04 fiscal year, and thereby facilitate the
13 orderly administration of state government at the earliest possible
14 time, it is necessary that this act take effect immediately.

